As a result, once again I urge my colleagues to reject cloture. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 429, S. 2061, a bill to improve women's access to health care services and provides improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services:

Bill Frist, Judd Gregg, Kay Bailey Hutchison, Lisa Murkowski, Susan Collins, Elizabeth Dole, Michael B. Enzi, James M. Inhofe, John Ensign, Craig Thomas, John Cornyn, Pat Roberts, Sam Brownback, Orrin G. Hatch, Charles Grassley, Mitch McConnell, Jon Kyl.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2061, a bill to improve women's access to health care services and provides improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) would each vote ''nay''.

The yeas and nays resulted—yeas 48, nays 45, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—48

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bond	Ensign	Nickles
Brownback	Enzi	Roberts
Bunning	Fitzgerald	Santorum
Burns	Frist	Sessions
Byrd	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner

NAYS—45

Akaka	Durbin	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham (FL)	Murray
Bingaman	Graham (SC)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Cantwell	Hollings	Pryor
Carper	Inouye	Reed
Clinton	Jeffords	Reid
Conrad	Kennedy	Rockefeller
Crapo	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Shelby
Dodd	Leahy	Stabenow
Dorgan	Levin	Wyden

NOT VOTING—7

Bennett	Edwards	Miller
Boxer	Johnson	
Corzine	Kerry	

The PRESIDING OFFICER (Mr. ALEXANDER). On this vote, the yeas are 48, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

MORNING BUSINESS

Mr. FRIST. Mr. President, I now withdraw my motion and ask that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized.

TRADITIONAL MARRIAGE

Mr. CORNYN. Mr. President, in 1996, the Congress voted overwhelmingly to pass the Defense of Marriage Act. This is a bipartisan bill, where Members of both parties in both Houses voted overwhelmingly to define marriage as an institution in traditional terms, between a man and a woman. This, as you may recall, was in part a response at the time to the Vermont decision implementing civil unions. This body, just like approximately 38 States, has now passed defense of marriage acts defining marriage in traditional terms.

Last September, the Senate Judiciary Committee's subcommittee on the Constitution held a hearing at which we elicited testimony on this issue: Is the Defense of Marriage Act in jeopardy?

The reason we had that hearing is because the U.S. Supreme Court, last year, made some pretty significant decisions, one of which was Lawrence v. Texas, which, if the rationale was going to be followed through, would seem to place the Defense of Marriage Act in jeopardy, saying that that somehow violated the Constitution, thus opening the way to marriage between same-sex couples.

At the time we had people, as you might imagine, as in every hearing, some of whom said, oh, no, the Defense of Marriage Act will stand as long as it is the will of Congress and the will of the American people. Others said more presciently, as it turns out, that if there are judges who want to use the decision of the U.S. Supreme Court in Lawrence v. Texas, and to extend that, indeed, yes, the Defense of Marriage Act could be in jeopardy—indeed, the very definition of marriage between a man and a woman that is part of the Federal law and, as I said, I believe some 38 States.

Well, of course, the day that many thought would come only remotely in the future came much more quickly, when the Massachusetts Supreme Court decided that, indeed, traditional marriage violated the Massachusetts Constitution. Now, some might say, well, since it was a matter of State constitution law, it is limited only to the State of Massachusetts. But a closer reading of that decision reveals that one of the bases upon which the Massachusetts Supreme Court decided that traditional marriage violated the Massachusetts Constitution was a U.S. Supreme Court decision in Lawrence v. Texas, interpreting the U.S. Constitution.

So as it turns out, there is a much closer relationship between the State court constitutional decision and a decision under the Federal Constitution.

Well, once the Massachusetts Supreme Court did, indeed, hold that marriage was no longer limited to men and women in Massachusetts, some said this was just a State matter and there was no reason for the Federal Government to get involved, and there was no reason for other States to be concerned. Yet over the last week or so, we have seen that individuals have moved—I saw one report in the Washington Post of people leaving Maryland and going to San Francisco and getting married—in defiance of State law, I might add—where the city of San Francisco, the mayor, and others, would issue marriage licenses, and then people would return to places such as Maryland. Or people would show up in San Francisco and, because of an act of civil disobedience by the mayor and municipal officials there, seek to get married, even though California law is consistent with Federal law and the law of other States defining marriage in traditional terms.

Indeed, we see in New Mexico and in Chicago, where the mayor said if same-sex couples sought to get married, he saw no reason not to issue them marriage licenses. Indeed, in Nebraska, a lawsuit in Federal Court is being defended by the attorney general of Nebraska under the Federal Constitution seeking to define marriage in not untraditional terms, to allow it not to be limited to just traditional marriage.

So this is not an issue that has been raised by Members of Congress initially. This is a matter that has been injected into the public arena by activist judges who have decided to radically redefine the institution of marriage in Massachusetts but the reverberations of which have resounded all across this Nation.

It is in that light I believe we in this body have a responsibility to ask what